

PT 95-61
Tax Type: PROPERTY TAX
Issue: Government Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

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THE CITY OF MARION AND      )  
MARION PARK DISTRICT      )   Docket #s  93-100-55, -56, and -57  
                           )   Parcel Index #s 07-20-201-007 (div.)  
    Applicants             )   07-20-201-008 (div.)  
                           )   07-20-126-004 (div.)  
                           )   07-20-100-001, and  
                           )   07-20-200-001  
                           )   (Williamson County)  
                           )  
                           )  
    v.                     )  
                           )  
THE DEPARTMENT OF REVENUE  )   George H. Nafziger  
OF THE STATE OF ILLINOIS  )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney James T. Garrison appeared on behalf of the City of Marion (hereinafter referred to as the "City").

SYNOPSIS: The hearing in this matter was held at 2309 West Main Street, Marion, Illinois, on May 5, 1995, to determine whether or not the parcels here in issue qualified for exemption from real estate tax for the 1993 assessment year.

Mr. Robert Butler, the mayor of the City, and Mr. James T. Garrison, president of the board of the Marion Park District (hereinafter referred to as the "Park District"), were present, and testified at the hearing in this matter.

The issues in this matter include first, whether the City and the Park District owned the parcels here in issue during the 1993 assessment year. The second issue is whether the parcels here in issue were used for public purposes during the 1993 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the City and the Park District owned the parcels here in issue during the period

September 15, 1993, through December 31, 1993. It is further determined that during the period September 15, 1993, through December 31, 1993, the City and the Park District were in the process of adapting the parcels here in issue for exempt use.

FINDINGS OF FACT:

1. On March 24, 1994, the Williamson County Board of Review transmitted Applications for Property Tax Exemption To Board of Review, concerning the parcels here in issue for the 1993 assessment year to the Illinois Department of Revenue (hereinafter referred to as the "Department") (Dept. Ex. Nos. 2, 2G, & 2J).

2. On October 6, 1994, the Department notified the City and the Park District that it was denying the exemption of the parcels here in issue for the 1993 assessment year (Dept. Ex. Nos. 3, 3A, & 3B).

3. On October 19, 1994, the City and the Park District requested a formal hearing in this matter (Dept. Ex. No. 4).

4. The hearing held in this matter on May 5, 1995, was held pursuant to that request.

5. During the 1950s, the City promoted and assisted in the establishment of the Park District, pursuant to a referendum (Tr. p. 14).

6. The City then conveyed its parks to the Park District.

7. Since the creation of the Park District, there has been a tradition of intergovernmental cooperation between the City and the Park District, usually on an informal basis, with each party using its employees and equipment for the benefit of the other.

8. During 1993, there were approximately 800 to 900 children playing soccer in Marion, under the auspices of the City recreation department. During 1993, the Park District did not have room for soccer fields in the existing parks, and the program was being operated on land owned by the local Roman Catholic church.

9. There had been informal discussions involving the City and the Park District, concerning the purchase of land for soccer fields for use by these children for several years.

10. During 1993, neither the City nor the Park District had the funds necessary to purchase land for soccer fields (Dept. Ex. No. 2-0).

11. During August of 1993, the City and the Park District became aware that Arlie and Eloise King owned about thirty acres of ground, which was suitable for the construction of soccer fields, and which they had for sale. This thirty-acre tract consists of the parcels here in issue.

12. The City and the Park District each authorized the expenditure of \$50,000.00 to acquire the parcels here in issue.

13. On September 15, 1993, Arlie and Eloise King conveyed the parcels here in issue to the City and the Park District, as tenants in common (Dept. Ex. No. 2R).

14. Pursuant to informal agreements memorialized in various minutes of the City Council and the Park Board (Applicant Ex. Nos. 1 through 8), and testified to by the mayor of the City and the president of the Park Board, the City agreed to pay one-half of the purchase price of the parcels here in issue, which was \$50,000.00, as well as to construct a street to provide access, furnish water and sewer facilities to the concession stand, and restrooms on these parcels, and help build a parking lot on said parcels.

15. Pursuant to the aforementioned informal agreements, the Park District agreed to pay one-half of the purchase price of these parcels, build nine soccer fields on said parcels, and also, a shelter, concession stand, and a restroom building, as well as help build a parking lot on said parcels. The Park District also agreed to provide maintenance, and the mowing of said parcels.

16. Prior to the purchase of these parcels, the sellers allowed the Park District to begin doing dirt work on the property.

17. During the fall of 1993, the Park District hired Mr. Carl Dahmer, a local contractor who, using his employees and construction equipment, shaped and crowned the dirt on these parcels, creating nine soccer fields, and a parking lot.

18. During the fall of 1993, the soccer fields on these parcels were then seeded and straw placed on them, to help keep the newly-shaped fields in place.

19. The parcels here in issue were annexed to the City on April 25, 1994 (Tr. p. 17).

20. During the spring and summer of 1994, the concession stand, maintenance building, and the restroom building, as well as the parking lot, were constructed.

21. On September 10, 1994, the first soccer games were played on these parcels.

22. Soccer games have been played on these parcels by the youth of the City, as well as by an adult team, since that date.

23. Based on the foregoing, I find that the City and the Park District acquired the parcels here in issue on September 15, 1993, as tenants in common.

24. Pursuant to informal agreements, the City and Park District proceeded to jointly adapt these parcels for exempt use, beginning on September 15, 1993, through December 31, 1993.

25. On September 10, 1994, I find that the exempt use of these parcels actually began upon completion of the adaptation of these parcels.

CONCLUSIONS OF LAW: Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.6 exempts certain property in part as follows:

"...and all property owned by any city or village outside the corporate limits of the city or village, if used exclusively for municipal or public purposes,...."

35 ILCS 205/19.18 exempts certain property in part as follows:

"All property of every kind belonging to any park or conservation district having a population of less than 1,000,000 by the last preceding Federal Census,...."

5 ILCS 220/3 provides in part as follows:

"Any power or powers, privileges or authority exercised or which may be exercised by a public agency of this State may be exercised and enjoyed jointly with any other public agency of this State...."

The City and the Park District have a long history of intergovernmental cooperation. The City and the Park District, pursuant to the appropriate motions and ordinances as evidenced by the various exhibits and testimony of the witnesses, agreed to and acquired, the parcels here in issue as tenants in common on September 15, 1993.

Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. *Illinois Institute of Technology v. Skinner*, 49 Ill.2d 59 (1971); *People ex rel. Pearsall v. Catholic Bishop of Chicago*, 311 Ill. 11 (1924); *In re Application of County Collector*, 48 Ill.App.3d 572 (1st Dist. 1977); and *Weslin Properties, Inc. v. Department of Revenue*, 157 Ill.App.3d 580 (2nd Dist. 1987).

Actually, before the City and the Park District acquired the parcels here in issue, they began to prepare them for exempt use for recreational purposes. Adaptation of these parcels was in progress pursuant to the foregoing findings of fact from September 15, 1993, through December 31, 1993. Said adaptation continued into 1994, until recreational activities were able to begin on these parcels on September 10, 1994.

I therefore conclude that the parcels here in issue were owned by the City and the Park District, as tenants in common, from September 15, 1993,

through December 31, 1993. I further conclude that pursuant to various informal agreements between the City and the Park District as evidenced by various documents in the record and the testimony of the witnesses, said public agencies proceeded during the period September 15, 1993, through December 31, 1993, to adapt said parcels for exempt use.

I therefore recommend that Williamson County parcels numbered 07-20-201-007 (div.), 07-20-201-008 (div.), 07-20-126-004 (div.), 07-20-100-001, and 07-20-200-001, be exempt from real estate tax for 30% of the 1993 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge

October , 1995